

Title 10 MARYLAND DEPARTMENT OF HEALTH

Subtitle 29 BOARD OF MORTICIANS AND FUNERAL DIRECTORS

Chapter 03 Inspection of Funeral Establishments and Funeral Service Businesses

10.29.03.00 Chapter 03 Inspection of Funeral Establishments and Funeral Service Businesses.

Authority: Health Occupations Article, §§7-101, 7-205, and 7-310, Annotated Code of Maryland.

10.29.03.01 Scope.

The purpose and intent of this chapter is to prescribe minimum standards for new funeral establishments, renovations of existing funeral establishments, and change of ownership of funeral establishments where the practice of mortuary science or funeral direction is conducted.

10.29.03.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - 1. "Board" means the Maryland State Board of Morticians and Funeral Directors.
 - 2. "Deficiency" means a specific failure to comply with the requirements set forth by the Board.
 - 3. "Funeral director" means an individual who is licensed by the Board to practice all aspects of mortuary science, except for embalming.
 - 4. "Funeral establishment" means any building, structure, or premises licensed by the Board, with facilities for:
 - a. Embalming or holding a dead human body for disposition;
 - b. Viewing of the human remains; and
 - c. Funeral services.
 - 5. "Funeral establishment sponsor" means any licensed funeral establishment providing for the operation of a Board-approved restricted funeral establishment.
 - 6. "Holding room" means a room which is:
 - a. Used exclusively for the holding of human remains if arterial embalming is not a function of the funeral home establishment; and
 - b. Distinct from the viewing room, chapel, or any other part of a funeral home establishment.
 - 7. "Inspection" means a survey of a funeral establishment by an investigator designated by the Board to ensure compliance with this chapter.
 - a. (6-1) "Ownership" means having or controlling directly or indirectly at least 10 percent interest in the corporation, partnership, association, organization, or other business entity.
 - 8. "Mortician" means an individual who is licensed by the Board to practice mortuary science.
 - 9. "Ownership" means having or controlling directly or indirectly at least 10 percent interest in the corporation, partnership, association, organization, or other business entity.
 - 10. Practice Funeral Direction.
 - a. "Practice funeral direction" means:
 - i. To operate a funeral establishment; and
 - ii. For compensation, prepare human remains for disposition; and
 - iii. For compensation, arrange for or make final disposition of human remains.
 - b. "Practice funeral direction" does not include:

- i. For compensation, disinfecting or preserving human remains or any of its parts by arterial or cavity injection or any other type of preservation; or
 - ii. The business of operating a crematory.
- 11. Practice Mortuary Science.
 - a. "Practice mortuary science" means:
 - i. The practice of funeral direction; and
 - ii. Disinfecting or preserving human remains or any of its parts by arterial or cavity injection.
 - b. "Practice mortuary science" does not include:
 - i. The pickup, removal, or transportation of human remains, if the unlicensed individual is acting under the direction of a licensed mortician or funeral director; or
 - ii. The business of operating a crematory.
- 12. Preneed contract" means an agreement between a consumer and a licensed funeral director or licensed mortician to provide any goods and services purchased before the time of death.
- 13. (13) "Preparation room" means an area with a minimum of 120 square feet which is used exclusively for the practice of mortuary science, which is separate and distinct from the viewing room, chapel, or any other part of a funeral establishment.
- 14. "Restricted funeral establishment" means a licensed business authorized by the Board under Health Occupations Article, §7-310(a)(2), Annotated Code of Maryland, to practice mortuary science or funeral direction services by a licensed mortician or funeral director with a designated sponsoring funeral establishment.
- 15. "Supervising funeral director" means a funeral director who is responsible to the Board for compliance with Health Occupations Article, Title 7, Annotated Code of Maryland, for all operations of a funeral establishment including, but not limited to, the administration of preneed accounts.
- 16. "Supervising mortician" means a mortician who is responsible to the Board for compliance with Health Occupations Article, Title 7, Annotated Code of Maryland, for all operations of a funeral establishment including, but not limited to, the administration of preneed accounts.
- 17. "Viewing room" means an area in which human remains are placed on display and which is a separate and distinct area from the preparation and holding room.

10.29.03.03 License Required for Funeral Establishment.

- A. The Board shall license a funeral establishment before the funeral establishment may be used for the practice of mortuary science or funeral direction.
- B. The Board shall issue a funeral establishment license to a funeral establishment that has:
 - 1. Complied with all applicable federal, State, and local laws;
 - 2. Submitted an application to the Board on the required form at least 60 days before the opening of the business;
 - 3. Paid the application fee and, when applicable, the family security trust fund fee; and
 - 4. Operated in accordance with Health Occupations Article, Title 7, Annotated Code of Maryland.
- C. A license shall expire on the date set by the Board, unless the license is renewed for an additional term at a fee set by the Board.
- D. A license is nontransferable and may not be renewed for a term longer than 2 years.
- E. Upon a sale or change in ownership of the funeral establishment, the new owner shall:
 - 1. Notify the Board within 14 days; and

2. Request a new license by submitting an application to the Board in writing with supporting documentation reflecting the sale or change of ownership.
- F. The Board shall issue a new funeral establishment license reflecting the sale or change in ownership if:
 1. The applicant submits the required documentation to the Board; and
 2. An inspection of the funeral establishment results in a finding that the funeral establishment is in compliance with all applicable federal, State, and local laws.
- G. A license, and the licenses of individual licensees employed at the funeral establishment, shall be displayed prominently at the premises.
- H. The funeral establishment:
 1. Shall employ and designate, on a form provided by the Board, a supervising mortician or supervising funeral director, licensed in accordance with State laws, who shall be in compliance with Health Occupations Article, Title 7, Annotated Code of Maryland;
 2. Shall prominently display on a sign, not smaller than 8 and 1/2 inches by 11 inches, immediately located either outside or inside the main entrance, in letters not less than one-half inch high, the names of:
 - a. Each licensee who holds at least a 10 percent ownership interest in the partnership, professional association, or sole proprietorship which operates the funeral establishment;
 - b. Any individual, corporation, or other business entity, which either directly or indirectly holds an ownership interest of 10 percent or more in the corporation or business entity that operates the funeral establishment; and
 - c. All restricted funeral establishments operating from that funeral establishment;
 3. That does embalmings and has designated a funeral director as the supervising agent shall employ a licensed mortician on staff;
 4. May not be required to apply for a new funeral establishment license if there is a change of a supervising mortician or supervising funeral director;
 5. Shall notify the Board, on a form provided by the Board, of any change of supervising mortician or supervising funeral director within 10 days;
 6. May not operate without a supervising mortician or supervising funeral director, who shall be continuously responsible, for more than 30 calendar days; and
 7. Shall ensure that medical waste is picked up by a licensed medical waste disposer not less than every 60 days from the date generated as outlined in COMAR 10.06.06.

10.29.03.04 Restricted Funeral Establishment Requirements.

- A. The Board shall license a restricted funeral establishment before the restricted funeral establishment may be used for the practice of mortuary science or funeral direction.
- B. The Board shall issue a restricted funeral establishment license to a restricted funeral establishment that has:
 1. Complied with:
 - a. All applicable federal, State, and local laws;
 - b. Advertising requirements set forth in COMAR 10.29.12; and
 - c. Regulation .05 of this chapter;
 2. For each restricted funeral establishment:
 - a. Submitted an application to the Board on the required form which includes a full description of services;

- b. Paid the application fee and, when applicable, the family security trust fund fee; and
 - c. Completed and passed an inspection as outlined in Regulation .05 of this chapter;
 - 3. After July 1, 2001, submitted to the Board copies of the documents listed in Regulation .05D of this chapter;
 - 4. Beginning January 1, 2002, submitted during the bi-annual inspection to the Board, copies of the documents listed in Regulation .05D of this chapter created during the preceding year; and
 - 5. Operated in accordance with Health Occupations Article, Title 7, Annotated Code of Maryland.
- C. The restricted funeral establishment shall:
- 1. Submit a notarized lease agreement with the sponsoring funeral establishment, including an application stating scope of operations for approval to the Board;
 - 2. Employ and designate, on a form provided by the Board, a supervising mortician or supervising funeral director, licensed in accordance with State laws, who shall be in compliance with Health Occupations Article, Title 7, Annotated Code of Maryland; and
 - 3. Submit documentation of any termination or change in the status of the lease agreement, within 10 days of the termination or change in status.
- D. Subject to the hearing provisions of Health Occupations Article, §7-319, Annotated Code of Maryland, the Board may:
- 1. Deny a license to an applicant for a restricted funeral establishment license;
 - 2. Reprimand the holder of a restricted funeral establishment license;
 - 3. Place the holder of a restricted funeral establishment license on probation;
 - 4. Suspend or revoke a restricted funeral establishment license if, with the knowledge or at the direction of the restricted funeral establishment:
 - a. An unlicensed individual practices mortuary science or funeral direction for or within the restricted funeral establishment; or
 - b. An employee of the restricted funeral establishment fails to comply with:
 - i. Health-General Article, §5-513(b) and (d), Annotated Code of Maryland; and
 - ii. Health Occupations Article, §7-405, Annotated Code of Maryland.
- E. The funeral establishment sponsor shall remain in good standing with the Board to continue as a sponsor for any restricted funeral establishment.
- F. For a funeral establishment sponsor that experiences the death of single owner and sole licensee as set forth in Health Occupations Article, §7-308.3, Annotated Code of Maryland, the restricted funeral establishment:
- 1. Shall submit to the Board a new notarized lease agreement within 30 days, if the restricted funeral establishment intends to continue operating from that sponsoring funeral establishment;
 - 2. Shall be subject to hearing provisions set forth under Health Occupations Article, §7-319, Annotated Code of Maryland, for failure to comply with §F(1) of this regulation, which may result in:
 - a. A reprimand for the holder of the restricted establishment license;
 - b. Probation for the holder of the restricted establishment license; or
 - c. The suspension or revocation of the restricted establishment license; and
 - 3. May voluntarily surrender the restricted funeral establishment license to avoid the hearing procedures provided the conditions are met as set forth under Health Occupations Article, §7-318, Annotated Code of Maryland.

- G. If a funeral establishment sponsor closes its operations to the public, any restricted establishment license with a lease agreement with this designated funeral establishment sponsor:
 - 1. Shall become invalid upon closure of the sponsoring funeral establishment subject to the hearing provisions set forth under Health Occupations Article, §7-319, Annotated Code of Maryland; or
 - 2. May voluntarily surrender the restricted funeral establishment license to avoid the hearing procedures, provided the conditions are met as set forth under Health Occupations Article, §7-318, Annotated Code of Maryland.
- H. For each location operated by the restricted funeral establishment, a separate license shall be obtained and displayed prior to commencing the practice of mortuary science or funeral direction.
- I. As set forth under Health Occupations Article, §7-504, preneed services and merchandise may be offered by a restricted funeral establishment.

10.29.03.05 Inspection by the Board.

- A. A licensed funeral establishment and a restricted funeral establishment shall be open at all reasonable times for inspection by the Board. Inspection results shall be written on forms approved by the Board.
- B. Each funeral establishment and restricted funeral establishment shall be inspected:
 - 1. On a biennial basis;
 - 2. In furtherance of an investigation; or
 - 3. Upon the sale or change of ownership of the funeral establishment.
- C. An owner, supervising mortician, supervising funeral director, or licensed designee shall be available to accompany the inspector during the inspection and sign the inspection report.
- D. The following forms shall be available for inspection, with a copy given to the inspector for the inspector's records:
 - 1. A general price list of charges for services to the public;
 - 2. A completed and duly signed funeral service contract with any invoices attached;
 - 3. A price list of caskets as charged to the public;
 - 4. A price list of outer burial containers, as charged to the public;
 - 5. Cremation forms:
 - a. Authorization form to cremate;
 - b. Cremation identification form; and
 - c. Disposition of cremated remains notification;
 - 6. A preneed contract form along with a bank statement form, for verification of an escrow or trust account, and, if provided, an insurance statement;
 - 7. A copy of the hazardous waste certification form described in §E(6)(d) of this regulation; and
 - 8. An authorization to release the body to the funeral establishment or the restricted funeral establishment.
- E. Standards for Inspection of Funeral Establishments and Restricted Funeral Establishments.
 - 1. Preparation Room. If arterial or cavity injection will take place at a funeral establishment or a restricted funeral establishment, the funeral establishment or the restricted funeral establishment shall maintain on the premises a preparation room which shall be adequately equipped and maintained in a sanitary manner for the preservation and care of human remains. The minimal requirements shall be as follows:

- a. The floors, walls, and ceilings shall be smooth and made of tile or other high gloss, impervious, washable material;
 - b. The floors, walls, and ceilings shall be in a clean and sanitary condition;
 - c. The lighting shall be adequate;
 - d. The ventilation shall be in accordance with current Occupational Safety and Health Administration (OSHA) regulations;
 - e. Doors to the preparation room shall be tight-closing and the windows maintained to obstruct any view into the preparation room;
 - f. The preparation room shall be a minimum of 120 square feet; and
 - g. If a refrigeration unit is on the premises, it shall be clean, sanitary, and in good working condition.
2. Holding Room. If arterial or cavity injection will not take place at a funeral establishment or a restricted funeral establishment, the funeral establishment or the restricted funeral establishment shall maintain on the premises a holding room which shall be adequately equipped for the holding of human remains which shall be kept in a clean and sanitary manner. The minimal requirements for the holding room shall be as follows:
 - a. The floors, walls, and ceilings shall be smooth and made of tile or other high gloss, impervious, washable material;
 - b. The floors, walls, and ceilings shall be in a clean and sanitary condition;
 - c. The lighting shall be adequate;
 - d. An exhaust system whereby gases would be drawn to outside air shall be the minimum standard for holding rooms in funeral establishments where embalming does not take place;
 - e. Doors to the holding room shall be tight-closing and the windows maintained to obstruct any view into the holding room; and
 - f. The holding room shall be a minimum of 120 square feet.
3. Instruments and Equipment.
 - a. Instruments shall be autoclaved, steamed, or cleaned with a chemical disinfectant commonly used in the industry.
 - b. The preparation table shall have a nonporous surface.
 - c. The removal stretcher and litter shall have a waterproof pouch.
 - d. If a refrigeration unit is on the premises, it shall be clean, sanitary, and in good working condition.
4. Water Supply.
 - a. Each funeral establishment and restricted funeral establishment shall have hot and cold running water.
 - b. The drain pipe for the water supply shall be at least 2 inches in diameter.
 - c. Floor drainage is required in the preparation room of a funeral establishment where embalming takes place, except for an establishment that existed on or before November 26, 2001 that has not had after that date:
 - i. The preparation room renovated; or
 - ii. A change of ownership.
5. Chemicals. All chemicals shall be plainly marked with appropriate warning labels.
6. Waste.
 - a. The preparation room shall be equipped with covered waste receptacles.

- b. Infectious waste shall be clearly identified and separate from other waste and put in a rigid container.
 - c. Blood and waste shall be disposed of in accordance with COMAR 10.06.06.01—.08.
 - d. A copy of the hazardous waste certification form provided by the licensee's hazardous waste contractor shall be provided to the Board's inspector.
 - e. The removal vehicle shall contain a universal precaution kit which shall contain at least:
 - i. Disposable gloves;
 - ii. Antibacterial hand wipes; and
 - iii. A hazardous waste container for the proper disposal of wastes.
7. Removal Vehicle. The removal vehicle shall be suitable for the transportation of human remains obscured from public view and maintained in a sanitary manner.
8. Funeral Service Establishment and Restricted Funeral Establishment Premises.
- a. The remaining areas of the funeral establishment and the restricted funeral establishment shall be in good repair, clean, and safe.
 - b. If a funeral establishment or a restricted funeral establishment has a memorial gathering area, it shall be:
 - i. In good repair;
 - ii. Clean; and
 - iii. At least 300 square feet in area.
 - c. If a funeral establishment or a restricted funeral establishment displays any form of casket selection, the prices shall also be shown.
 - d. The inspection shall assess the general cleanliness of the funeral establishment and the restricted funeral establishment and whether there are properly functioning, sanitary restrooms.
 - e. The business telephone shall be in working order at a funeral establishment and a restricted funeral establishment.
 - f. A sign or lettering on the windows or building indicating the name of the funeral establishment and the restricted funeral establishment shall be conspicuously displayed, and the name on the sign shall be the same name on the funeral establishment license and the restricted funeral establishment license.
 - g. If one or more businesses, in addition to a funeral establishment, are operating on the same premises, a separate sign shall indicate the entrance and exit of the funeral establishment and the restricted funeral establishment.
 - h. After the inspection is completed, an exit interview shall be conducted to apprise the owner or supervising mortician of the findings of the inspection. A copy of the inspection report shall be left with the owner or supervising mortician who shall verify receipt of the inspection report.

10.29.03.06 Establishment Inspection Report and Deficiencies.

- A. The Board shall review the inspection report and make a determination as to whether a deficiency exists.
- B. The Board shall notify the funeral establishment and the restricted funeral establishment in writing of the results of the inspection.
- C. If the funeral establishment licensee and the restricted funeral establishment licensee pass the inspection, the licensees shall prominently display on the premises a statement issued by the Board

that the funeral establishment and the restricted funeral establishment have successfully passed the inspection.

- D. If the Board finds a deficiency, the Board shall send to the owner and the restricted funeral establishment within 2 weeks of the inspection notification of the deficiency or failure to pass the inspection.
- E. Correction of Deficiency.
 - 1. Except as provided in this section, an owner and the restricted funeral establishment shall correct a deficiency within 30 days after receipt of notification.
 - 2. The Board may require immediate correction of a deficiency if the Board considers the correction necessary to the interest of public health.
 - 3. The owner or the restricted funeral establishment may request an extension of time for correction of a deficiency.
 - 4. The Board may approve an extension of time for correction of a deficiency.
 - 5. Upon completion of correction of all deficiencies, the owner or the restricted funeral establishment shall notify the Board.
 - 6. Upon notification, the Board or its designee shall re-inspect the funeral establishment or the restricted funeral establishment and the Board shall notify the owner or the restricted funeral establishment in writing of the results of the re-inspection within 1 week.
 - 7. If re-inspection reveals additional deficiencies not cited in the first inspection report, the owner or the restricted funeral establishment shall correct those deficiencies in the time period specified unless an extension of time is requested by the owner or the restricted funeral establishment and approved by the Board.

10.29.03.07 Penalties.

- A. Failure to allow an inspection of the funeral establishment or the restricted funeral establishment may result in disciplinary action against a funeral establishment license or a restricted funeral establishment license, subject to the hearing requirements as set forth under Health Occupations Article, §7-319, Annotated Code of Maryland.
- B. Failure to comply with a notice to correct deficiencies or violations within the 30-day period, or any reasonable extension granted by the Board under Regulation .06E of this chapter, may result in disciplinary action against a funeral establishment license or the denial of a renewal of a funeral establishment license, subject to the hearing requirements as set forth under Health Occupations Article, §7-319, Annotated Code of Maryland.
- C. Disciplinary action may not be taken against a supervising mortician or funeral director for the acts or omissions of another individual unless the supervising mortician or funeral director knew or should have known of a violation of:
 - i. Health-General Article, Title 5, Annotated Code of Maryland; or
 - ii. Health Occupations Article, Title 7, Annotated Code of Maryland.

10.29.03.9999 Administrative History

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